

## Commodity Credit Corporation, USDA

## § 1430.213

is not presented to CCC or FSA, the request for MILC benefits will be disapproved.

[67 FR 64476, Oct. 18, 2002, as amended at 71 FR 19623, Apr. 17, 2006; 73 FR 73767, Dec. 4, 2008]

### § 1430.210 MILC agents.

(a) MILC benefits may be disbursed by a dairy marketing cooperative that serves special groups or communities, such as an Amish or Mennonite community. Producers in such groups in a dairy operation may authorize an agent of a dairy cooperative or milk handler affiliated with such cooperative to obtain and disburse MILC benefits to the dairy operation.

(b) The authorized MILC agent must on behalf of the dairy operation do the following:

(1) Obtain an acceptable power of attorney or acceptable equivalent for the producers of the dairy operation that authorizes the agent to enter into an MILC contract;

(2) Enter into a written agreement with CCC for approval to act as a MILC agent on a form prescribed by CCC;

(3) Provide the dairy operation's monthly production evidence to the appropriate FSA office;

(4) Disburse payment to the dairy operation in the producer's monthly milk check or in an otherwise approved manner.

### § 1430.211 Duration of contracts.

(a) Except as provided in § 1430.205, or elsewhere in this subpart, a MILC entered into by producers in a dairy operation shall cover eligible production marketed by the producers in the dairy operation during the period beginning with the first day of the month the producers in the dairy operation enter into an MILC and ending on September 30, 2012.

(b) If a dairy goes out of business during the contract period, the MILC will be terminated immediately, except as applicable to earned payments.

[67 FR 64476, Oct. 18, 2002, as amended at 71 FR 19623, Apr. 17, 2006; 73 FR 73768, Dec. 4, 2008]

### § 1430.212 Contract modifications and statutory changes in program.

(a) Producers in a dairy operation must notify FSA immediately of any changes that may affect their MILC. Changes include, but are not limited to changes to the starting month to receive payment for the next fiscal year, death of producer on the contract, new member joining the operation, member exiting the operation, transfer of shares by sale or other transfer action, or farm reconstitutions undertaken in accordance with § 1430.213.

(b) CCC may modify an MILC if such modifications are desirable to carry out purposes of the program or to facilitate the program's administration.

(c) Payments otherwise due under this subpart or the program will be adjusted or denied to the extent provided for by a statutory change in program eligibilities or requirements of any kind irrespective of whether the program contract preceded the statutory change. Operations will be given the option of accepting the changes or terminating the contract.

[67 FR 64476, Oct. 18, 2002, as amended at 73 FR 73768, Dec. 4, 2008]

### § 1430.213 Reconstitutions.

(a) A dairy operation receiving MILC benefits may reorganize or restructure such that the constitution or makeup of its operation is reconstituted in another organizational framework. However, any operation that reorganizes or restructures after October 1, 2007, is subject to a review by FSA to determine if the operation was reorganized or restructured for the sole purpose of receiving multiple or additional MILC payments.

(b) A dairy operation that FSA determines has reorganized solely to receive additional MILC payments will be in violation of its contract and dealt in accordance with § 1430.214.

(c) If during the contract period a change in the dairy operation occurs, the modification to the MILC will not take effect until the first day of the fiscal year following the month FSA received notification of the changes. Changes include but are not limited to any producer affiliated with a dairy operation that has an approved MILC

## **§ 1430.214**

with CCC forming a new dairy operation that is not formed solely to receive additional MILC payments.

(d) Changes resulting in the following will take effect immediately upon notification to CCC, in accordance with § 1430.212:

(1) Increases or reductions of shareholders or producers and their corresponding share amounts in the dairy operation; or

(2) Purchases of a new dairy operation by a producer or producers not affiliated with an existing dairy operation that has an approved MILC with CCC.

[67 FR 64476, Oct. 18, 2002, as amended at 73 FR 73768, Dec. 4, 2008]

### **§ 1430.214 Violations.**

(a) If producers in a dairy operation violates the MILC or the requirements of this subpart, CCC may:

(1) Terminate the MILC for the remainder of the fiscal year in which the violation occurs, and allow the producer to retain any payments received under the contract; or

(2) Allow the MILC to remain in effect and require the producer to repay a portion of the payments received commensurate with the violation's severity, as CCC determines.

(3) If the MILC is terminated under this section, the participant shall forfeit all rights to further MILC benefits and shall refund all or part of the payments received as CCC determines appropriate.

(4) A producer or operation with a violation, as determined by CCC, shall refund all MILC funds disbursed under of this part. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

(b) A MILC is violated by the following actions:

(1) Failure to comply with the terms and conditions of the MILC and addendum;

(2) Reconstitutions of the dairy operation for the sole purpose of receiving multiple program benefits;

(3) Failure to comply with highly erodible land conservation and wetland provisions of this 7 CFR part 12 or their successor regulations;

## **7 CFR Ch. XIV (1–1–11 Edition)**

(4) Failure to meet the definition of a dairy operation according to § 1430.202;

(5) Any action that tends to defeat the purpose of the program, as CCC determines.

(c) The Deputy Administrator for Farm Programs (DAFP) of the Farm Service Agency may terminate any MILC by mutual agreement upon request of the participant if DAFP determines that termination is in the best interest of the public.

(d) The DAFP may determine that failure of the dairy operation to perform the MILC does not warrant termination and may require the participant to refund part of the payments received or accept adjustments in the payment as the DAFP determines to be appropriate.

### **§ 1430.215 [Reserved]**

### **§ 1430.216 Contracts not in conformity with regulations.**

If it is discovered that an MILC contract does not comply with this subpart as the result of a misunderstanding by someone who has signed the contract, the contract may be modified by mutual agreement. If the parties to the MILC cannot reach agreement for such modification, it shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to CCC, except as may otherwise be allowed under § 1430.214.

### **§ 1430.217 Offsets and withholdings.**

CCC may offset or withhold any amount due CCC under this subpart under the provisions of part 1403 of this chapter or any successor regulations.

### **§ 1430.218 Assignments.**

Any producer may assign a payment to be made under this part in accordance with part 1404 of this chapter or successor regulations as designated by the Department.

### **§ 1430.219 Appeals.**

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination under part 11 or 780 of this title.